Good character evidence should be considered with all the other evidence in the case, *Allen v. State,* 8 Ala. App. 228; *People v. Dippold,* 30 App. Div. (N. Y.) 62; but such evidence is not of itself sufficient to raise a reasonable doubt of guilt, *Cobb v. State,* 115 Ala. 18; *Carwile v. State,* 148 Ala. 576; *Hammond v. State,* 74 Miss. 214; and proof of good character is of no weight if the jury are satisfied beyond a reasonable doubt from *all* the evidence that defendant is guilty. *People v. Dippold, supra; State v. McGrath,* 35 Ore. 109; *State v. Mapin,* 196 Mo. 164; *People v. Mitchell,* 129 Cal. 584; *Hayes v. U. S.,* 32 Fed. 662. An Oklahoma court has even held that the defendant has no right to have good character evidence considered at all in deciding the issue of reasonable doubt as to the defendant's guilt. *Coleman v. State,* 118 Pac. (Okl.) 594; and Texas agrees that good character is not affirmative evidence for defendant nor is it to be considered at all in determining his guilt. *McDaniel v. State,* 139 S. W. (Tex.) 1154. On the other hand, it is held in New York that the good reputation of the accused may *in itself* create a reasonable doubt where none would otherwise exist. *People v. Buccufurri,* 143 N. Y. Sup. 62; *People v. Koppman,* 143 N. Y. Sup. 919. Alabama adds that good reputation, when taken with all the evidence in the case, may raise such a doubt as to authorize acquittal when the jury otherwise would have no doubt. *Watts v. State,* 59 So. (Ala.) 270; *McCullough v. State,* 11 Ga. App. 612. The principal case seems to take the New York view that good character alone may create a doubt sufficient for an acquittal where the evidence of the defendant's guilt is otherwise convincing. This doctrine seems to lay rather too much stress on evidence of defendant's previous good reputation.

S. B.

HOMICIDE—JUSTIFICATION.—COOP V. STATE, 180 S. W. (TEX.) 254.—Wife of appellant had conducted herself in such way as to show that she had been unfaithful to marriage vows. Appellant saw his wife and decedent standing in the street in close embrace and fired on them, killing both. A Texas statute provides "Homicide is justifiable when committed by husband upon the person of anyone taken in the act of adultery with the wife, provided the killing take place before the parties to the act of adultery have separated." *Held,* appellant entitled to a charge that he did not violate the law in killing his wife.

It seems to be settled in Texas under this statute that the killing of the wife is justifiable wherever the killing of the other party would be. *Williams v. State,* 73 Tex. Cr. R. 480. The theory seems to be that since at common law the killing of the wife under such circumstances was manslaughter instead of murder, the statute may also be construed as putting the killing of the wife on the same plane with the killing of the other party. The Texas courts have given a broad construction to this statute. In *Morrison v. State,* 39 Tex. Cr. R. 519, it was held that the statute contemplated only that the parties still be in the company of each other. In *Price v. State,* 18 Tex. App. 474, it is said that since at common law it was not necessary that the guilty parties be taken in the act in order to grade the homicide as manslaughter rather than as murder, so

under the statute it is not necessary, to render the killing justifiable, that they be taken in the act. If the facts would constitute manslaughter at common law, under the Texas statute the killing would be justifiable. But when the rule of construction of penal statutes is borne in mind, that they are to be strictly construed, *Texas and Pac. Ry. Co. v. Blockes,* 48 Tex. Civ. App. 100, it is hard to sustain the holding that under these facts, the appellant was entitled to a charge that he did not violate the law.

R. C. W.

NEGLIGENCE—LIABILITY OF MANUFACTURER TO THIRD PARTIES—NATURE OF THE GOODS AS TEST.—MACPHERSON V. BUICK MOTOR CO., 111 N. E. (N. Y.) 1050.—Plaintiff, owner of an automobile purchased from a retail dealer, was thrown out and injured by the collapse of a defective wheel. The complete machine had been assembled by and sent out from defendant as manufacturer, though the wheel itself had been bought from another manufacturer. *Held,* that a manufacturer of automobiles is liable to third parties, not in contract relation with him, for injuries due to negligent defects in construction, and that he is responsible for the finished product although parts may have been bought from a reputable manufacturer.

The manufacturer and seller of articles of ordinary use, in themselves harmless, is not liable to those not in contract relations with him for personal injuries due to negligence in construction of the article. *Thornhill v. Carpenter-Morton Co.,* 108 N. E. (Mass.) 474. But the maker of a thing imminently dangerous to life or health owes a positive duty of care, commensurate with the peril, to every person into whose hands it may lawfully come, or by whom it may lawfully be used. *Wood v. Sloan,* 148 P. (N. M.) 507. Within this class there is a tendency to include not only commodities whose very existence is fraught with danger to owner and public—such as explosives, *Mathis v. Granger Brick & Tile Co.,* 149 Pac. (Wash.) 3; electricity, *Kentucky Utilities Co. v. Searcy,* 181 S. W. (Ky.) 662; gas, *Sharlsey v. Portland Gas & Coke Co.,* 144 Pac. (Or.) 1152; volatile petroleum products, *Standard Oil Co. v. Wakefield,* 63 Fed. 400, etc.,—but also those whose normal use would result, with reasonable certainty, in personal harm to the user, if not properly made. Thus, food, *Parks v. G. C. Yost Pie Co.,* 144 Pac. (Kan.) 202; bottled drinks, *Boyd v. Coca Cola Bottling Works,* 177 S. W. (Tenn.) 80; drugs, *Mazetti v. Armour & Co.,* 75 Wash. 622; and soap, *Hasbrouck v. Armour & Co.,* 139 Wis. 357, have been held to be of this nature. In regard to vehicles there has been a distinct and confessed conflict. The English view, that they are not of this essentially and imminently dangerous class, set forth in *Winterbottom v. Wright,* 10 Meeson & Welsby 109, quoted in the principal case, has been followed in this country as regards carriages, *Burkett v. Studebaker Mfg. Co.,* 150 S. W. (Tenn.) 421, and by the federal court in the case of automobiles. *Cadillac Motor Car Co. v. Johnson,* 221 Fed. (U. S. C. C. A.) 801. On the other hand, at least two decisions have recognized the public policy of holding to strict accountability the man who puts out an instrumentality of high speed